



February 13, 2015

---

## SENATE BILL No. 388

---

DIGEST OF SB 388 (Updated February 11, 2015 12:25 pm - DI 106)

**Citations Affected:** IC 10-11; IC 33-39; IC 34-24.

**Synopsis:** Seizure and forfeiture of property. Requires a law enforcement agency and prosecuting attorney to report monthly certain information to the Indiana state police department or the Indiana prosecuting attorneys council concerning seized or forfeited property, and requires the Indiana state police department and prosecuting attorneys council to compile these reports and transmit them monthly to the treasurer of state.

**Effective:** July 1, 2015.

---

---

### Hershman

---

---

January 12, 2015, read first time and referred to Committee on Judiciary.  
February 12, 2015, amended, reported favorably — Do Pass.

---

---

SB 388—LS 6723/DI 69





February 13, 2015

First Regular Session 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

## SENATE BILL No. 388

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 10-11-2-34 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2015]: **Sec. 34. At least one (1) time every calendar month, the**  
4 **superintendent shall:**

5           **(A) compile forfeiture and seizure data received under**  
6           **IC 34-24-1-4.5; and**

7           **(B) provide the compiled data under clause (A) to the**  
8           **treasurer of state in a format approved by the treasurer.**

9       **The superintendent may adopt rules under IC 4-22-2 to comply**  
10 **with this subdivision.**

11       SECTION 2. IC 33-39-8-5, AS AMENDED BY P.L.176-2005,  
12 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2015]: Sec. 5. The council shall do the following:

14           (1) Assist in the coordination of the duties of the prosecuting  
15           attorneys of the state and their staffs.

16           (2) Prepare manuals of procedure.

SB 388—LS 6723/DI 69



(3) Give assistance in preparation of the trial briefs, forms, and instructions.

(4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.

(5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

(6) Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program.

**(7) At least one (1) time every calendar month, the council shall:**

**(A) compile forfeiture and seizure data received under IC 34-24-1-4.5; and**

**(B) provide the compiled data under clause (A) to the treasurer of state in a format approved by the treasurer.**

**The council may adopt rules under IC 4-22-2 to comply with this subdivision.**

SECTION 3. IC 34-24-1-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 4.5. (a) Not later than thirty (30) days from the end of the calendar month in which property was seized under this chapter by a law enforcement officer, the agency employing the law enforcement officer shall report the following to the state police department (or to the appropriate division of the state police department, if the officer is employed by the state police department):**

**(1) An itemized list of property seized by the law enforcement agency.**

**(2) The estimated value of the seized property.**

**(3) An itemized list of any previously seized property returned to the owner.**

**The subsection applies even if the property is transferred to a federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e), and any related regulations adopted by the United States Department of Justice.**

**(b) Not later than thirty (30) days from the end of the calendar month in which a law enforcement agency receives money or property as a result of a forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice, the agency shall report the amount of money or property received to the state**



1 police department (or to the appropriate division of the state police  
2 department, if the law enforcement agency is the state police  
3 department).

4 (c) Not later than thirty (30) days from the end of the calendar  
5 month in which a law enforcement agency receives money or  
6 property under a:

7 (1) judgment entered under section 4 of this chapter; or

8 (2) sale conducted under section 6 of this chapter;

9 the agency shall report the amount of money or property received  
10 to the state police department (or to the appropriate division of the  
11 state police department, if the law enforcement agency is the state  
12 police department).

13 (d) This subsection applies only to a prosecuting attorney. Not  
14 later than thirty (30) days from the end of the calendar month in  
15 which a court enters a judgment in favor of the state or a unit  
16 under section 4 of this chapter, the prosecuting attorney shall  
17 report the:

18 (1) amount of money or property that is the subject of the  
19 judgment; and

20 (2) law enforcement agency to which the money or property  
21 is ordered to be transferred;

22 to the Indiana prosecuting attorneys council. This subsection  
23 applies even if the prosecuting attorney has retained an attorney to  
24 bring an action under this chapter.

25 (e) This subsection applies only to a prosecuting attorney. Not  
26 later than thirty (30) days from the end of the calendar month in  
27 which a court, upon motion of the prosecuting attorney under  
28 IC 35-33-5-5(j), orders property transferred to a federal authority  
29 for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21  
30 U.S.C. 881(e), and any related regulations adopted by the United  
31 States Department of Justice, the prosecuting attorney shall report  
32 to the Indiana prosecuting attorneys council the amount of money  
33 or property transferred. This subsection applies even if the  
34 prosecuting attorney has retained an attorney to bring an action  
35 under this chapter.

36 (f) A report made to the state police department or the Indiana  
37 prosecuting attorneys council under this section must be in a  
38 format approved by the state police department and the  
39 prosecuting attorneys council.



## COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 388, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 16, begin a new paragraph and insert:

"SECTION 1. IC 10-11-2-34 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 34. At least one (1) time every calendar month, the superintendent shall:**

**(A) compile forfeiture and seizure data received under IC 34-24-1-4.5; and**

**(B) provide the compiled data under clause (A) to the treasurer of state in a format approved by the treasurer.**

**The superintendent may adopt rules under IC 4-22-2 to comply with this subdivision.**

SECTION 2. IC 33-39-8-5, AS AMENDED BY P.L.176-2005, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. The council shall do the following:

(1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.

(2) Prepare manuals of procedure.

(3) Give assistance in preparation of the trial briefs, forms, and instructions.

(4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.

(5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

(6) Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program.

**(7) At least one (1) time every calendar month, the council shall:**

**(A) compile forfeiture and seizure data received under IC 34-24-1-4.5; and**

**(B) provide the compiled data under clause (A) to the treasurer of state in a format approved by the treasurer.**

**The council may adopt rules under IC 4-22-2 to comply with this subdivision."**

Delete pages 2 through 4.

Page 5, delete lines 1 through 11.

SB 388—LS 6723/DI 69



Page 5, line 14, delete "Any time:" and insert **"Not later than thirty (30) days from the end of the calendar month in which property was seized under this chapter by a law enforcement officer, the agency employing the law enforcement officer shall report the following to the state police department (or to the appropriate division of the state police department, if the officer is employed by the state police department):"**

- (1) An itemized list of property seized by the law enforcement agency.**
- (2) The estimated value of the seized property.**
- (3) An itemized list of any previously seized property returned to the owner.**

**The subsection applies even if the property is transferred to a federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e), and any related regulations adopted by the United States Department of Justice.**

**(b) Not later than thirty (30) days from the end of the calendar month in which a law enforcement agency receives money or property as a result of a forfeiture under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e) and any related regulations adopted by the United States Department of Justice, the agency shall report the amount of money or property received to the state police department (or to the appropriate division of the state police department, if the law enforcement agency is the state police department).**

**(c) Not later than thirty (30) days from the end of the calendar month in which a law enforcement agency receives money or property under a:**

- (1) judgment entered under section 4 of this chapter; or**
- (2) sale conducted under section 6 of this chapter;**

**the agency shall report the amount of money or property received to the state police department (or to the appropriate division of the state police department, if the law enforcement agency is the state police department).**

**(d) This subsection applies only to a prosecuting attorney. Not later than thirty (30) days from the end of the calendar month in which a court enters a judgment in favor of the state or a unit under section 4 of this chapter, the prosecuting attorney shall report the:**

- (1) amount of money or property that is the subject of the judgment; and**
- (2) law enforcement agency to which the money or property**



is ordered to be transferred;  
to the Indiana prosecuting attorneys council. This subsection applies even if the prosecuting attorney has retained an attorney to bring an action under this chapter.

(e) This subsection applies only to a prosecuting attorney. Not later than thirty (30) days from the end of the calendar month in which a court, upon motion of the prosecuting attorney under IC 35-33-5-5(j), orders property transferred to a federal authority for disposition under 18 U.S.C. 981(e), 19 U.S.C. 1616a, or 21 U.S.C. 881(e), and any related regulations adopted by the United States Department of Justice, the prosecuting attorney shall report to the Indiana prosecuting attorneys council the amount of money or property transferred. This subsection applies even if the prosecuting attorney has retained an attorney to bring an action under this chapter.

(f) A report made to the state police department or the Indiana prosecuting attorneys council under this section must be in a format approved by the state police department and the prosecuting attorneys council."

Page 5, delete lines 15 through 42.

Delete pages 6 through 7.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 388 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

